

B-198760

since as a construction representative he moved from one construction site to another in locations away from the office which made the errors. Further, the small amounts of the overpayments, the cost of living increases that occurred immediately after the promotions, and the mailing of his pay checks directly to his bank made the errors difficult to detect. The agency's administrative reports concur with Mr. King's views.)

(An employee's request for waiver of overpayment under 5 U.S.C. § 5584 must be accompanied by clear and convincing proof that the Government's collection of the debt would be against equity and good conscience and not in the best interest of the Government.)  
B-168738, February 24, 1970. (However, we have held that waiver is proper if a relatively small error each pay period is difficult to detect because of pay fluctuation, and if the employee is not otherwise on notice of the error by reason of his official position and knowledge of pay matters.) B-172975, October 27, 1971; William White, B-186562, March 11, 1977.

The record (in this case) indicates that (the relatively small overpayments would have been difficult for Mr. King to discover because of the pay fluctuations and the other circumstances corroborated by his employing agency. Further, he was a construction representative and not in a position to know the regulations concerning compensation and changes in pay rates.)

Accordingly, (our Claims Division's denial of waiver, December 18, 1979, (is reversed and Mr. King's request for waiver of \$1,287.20 is granted.)

*Milton J. Avicola*

Acting Comptroller General  
of the United States